

TITLE 14. DEPARTMENT OF BOATING AND WATERWAYS

NOTICE OF PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the California Department of Boating and Waterways (Department) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Department proposes to add Section 6593, Title 14, California Code of Regulations, relating to the Boating Safety and Enforcement Financial Aid Program.

WRITTEN COMMENTS

A written comment period has been established commencing on May 31, 2002 and terminating on July 25, 2002. Any interested person may present written comments concerning the proposed regulation no later than **5:00 p.m. on July 25, 2002**. The Department will also accept written comments during the public hearing described below. Please submit your written comments to:

Ms. Corrina Dugger
California Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, California, 95815
FAX: (916) 263-0357
e-mail: cdugger@dbw.ca.gov

PUBLIC HEARING

The Department will hold a public hearing starting at **9:30 a.m., Thursday, July 25, 2002**, at the Radisson Hotel, 500 Leisure Lane, Edgewater F Room, Sacramento, California.

At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the Informative Digest/Policy Statement Overview. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

AUTHORITY AND REFERENCE

This regulatory action is taken pursuant to the authority vested by Harbors and Navigation Code Section 663.7. The purpose of the proposed regulations is to implement, interpret and make specific Harbors and Navigation Code Section 663.7.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law authorizes the Department to provide State financial aid to counties for boating safety and enforcement programs. This proposal is intended to implement, interpret, and make specific the provisions of the boating safety and enforcement financial eligibility program. This proposal clarifies the definition of boating safety and enforcement activities. This proposal specifies eligibility for the program in accordance

with existing law. This proposal implements the application process necessary for the Department to comply with existing law.

Existing law requires the Department to adopt and utilize a formula for allocation of State financial aid to counties that voluntarily choose to participate in the boating safety and enforcement program. This proposal provides a State boating safety and financial aid allocation formula that specifies allocations to existing participating agencies and provides a process whereby new agencies may be admitted to the program. The formula specifies how participating agencies may receive additional State financial aid, if available, and the process for reduced State financial aid when the funds appropriated for the program are reduced from the prior year.

Existing law authorizes the Department to adopt rules and regulations necessary to carry out the provisions of the boating safety and enforcement financial aid program. This proposal specifies allowable and non-allowable costs of the program, the reimbursement process, and the audit and appeals process necessary to ensure State funds are utilized in accordance with existing law.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Department has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts, nor does it require reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the Government Code because the regulatory action does not constitute a “new program or higher level of service of an existing program” within the meaning of section 6 of Article XIII of the California Constitution. The Department has also determined that no non-discretionary costs or savings to local agencies will result from the proposed regulatory action.

COSTS OR SAVINGS TO STATE AGENCIES

The Department has determined that no savings or any increased costs to any State agency will result from this regulatory action.

COSTS OR SAVINGS TO FEDERAL FUNDING TO THE STATE

The Department has determined that this regulatory action imposes no cost or savings in federal funding to the State.

EFFECT ON HOUSING COSTS

The Department has initially determined that this regulatory action will have no effect on housing costs.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES

The Department has made the initial determination that adoption of this proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

IMPACT ON THE CREATION, ELIMINATION, OR EXPANSION OF JOBS

The Department had determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

REPORTING REQUIREMENTS

The proposed regulatory action makes no reporting requirements upon businesses.

COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulatory action.

DETERMINATION OF EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulatory action has no impact on small businesses because only a County, or a public agency within a County, may participate in the boating safety and enforcement program, and neither of these type of entities are small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The purpose of the proposed regulatory action is to implement, interpret, and make specific the provisions of the boating safety and enforcement financial eligibility program. The general intent of the boating safety and enforcement financial eligibility program is to augment local agencies revenues for boating safety and enforcement activities when such revenues are insufficient to cover the costs. The Department has determined that, in order to ensure compliance with existing State law, reimbursement is provided to participating agencies after allowable expenditures are incurred. An alternative is to advance funds to counties prior to incurring allowable expenditures. However, such a process does not allow the Department to guarantee that local revenues are incurred for boating safety and enforcement activities prior to the use of the State-provided augmented funding without a cumbersome and time consuming reconciliation process, as well as it is difficult for the Department to recoup advanced funds if they are spent inappropriately. Thus, this alternative was not viewed as more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

Alternative allocation formulas were considered and are discussed in the Initial Statement of Reasons in the applicable section. None of these alternatives were viewed as more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments regarding alternatives to the proposed regulations at the above-mentioned hearing or during the comment period.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an Initial Statement of Reasons, and has available the express terms of the proposed regulatory action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the Department contact person named in this notice. The information upon which the Department relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the close of the comment period, the Department may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If the Department does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the Department contact person named in this notice. The Department will accept written comments on any changes for 15 days after the modified text is made available.

CONTACT PERSON

Written comments about the proposed regulatory action, requests for a copy of the Initial Statement of Reasons and/or the proposed text of the regulation, inquiries regarding the rulemaking file, and questions on the substance of the proposed regulatory action may be directed to:

Ms. Corrina Dugger
California Department of Boating and Waterways
2000 Evergreen Street, Suite 100
Sacramento, California, 95815
Telephone: (916) 263-8184
FAX: (916) 263-0357
e-mail: cdugger@dbw.ca.gov

Note: In the event the contact person is unavailable, inquiries should be directed to the following backup contact person at the same address as noted above:

David Johnson, Regulations Coordinator
(916) 263-0780

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on the Department's Internet Home Page (<http://www.dbw.ca.gov>).

AVAILABILITY OF FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons mandated by Government Code section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on the Department's Internet Home Page and accessed at <<http://www.dbw.ca.gov>>.